

As fully explained by Judge Hodge, Petitioner's Habeas Corpus is both unexhausted and untimely. Furthermore, because the timeliness defect in the Petition will not be cured by further action, the Court rejects Petitioner's attempt to have his Habeas Corpus dismissed without prejudice in order to fully exhaust his state remedies. Therefore,

Judge Hodge's Report and Recommendation is accepted, Respondents Motion to Dismiss Petition as Untimely and/or for Lack of Exhaustion is granted, and Petitioner's Motion for Voluntary Dismissal is denied.

SO ORDERED, this the 31st day of January, 2007.

/s/ **Hugh Lawson**

HUGH LAWSON, Judge

SCS